

Appl. No. 09/873,564

Reply

Reply following Examiner's Answer of July 2003



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**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Appl. No. : 09/873,564
Applicant(s) : van DOMMELEN, Mark J., et al.
Filed : 4 June 2001
Title : HIGH-PRESSURE DISCHARGE LAMP
TC/A.U. : 2841
Examiner : LEVI, Dameon E.
Atty. Docket : PHBE 000011

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APPELLANTS REPLY BRIEF

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REPLY OF APPELLANT

This Reply of Appellant is in response to the
Examiner's Answer, dated 29 July, 2003. All requisite fees set
forth in 37 CFR 1.17(c) for this Brief are hereby authorized to
be charged to Deposit Account No. 501850.

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In paragraph (2) of the Examiner's Answer, it is stated that Appellant's Brief contains no statement that no other appeals or interferences are known which would directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. However, such a statement is contained on page 1 of the Brief, under the heading RELATED APPEALS AND INTERFERENCES.

In response to Appellant's argument that there is no teaching presented by Thornton to the skilled artisan which would suggest the addition of a light-scattering layer to Verschueren's lamp, the Examiner answers that it would have been obvious to add the light-scattering layer to improve color rendition, citing col. 3, line 60 through col. 4, line 62 of Thornton.

However, it is the blend of three different phosphors which improves the color rendition of Thornton's lamp, not the light-scattering layer. See col. 4, lines 44-50, wherein it is stated that the blend of the blue-violet, blue-green and red emitting phosphors together with the mercury emission results in a color rendering index of 63.

In contrast, the purpose of the light-scattering layer is to trap unabsorbed UV light and scatter it back to the phosphor layer where it can have a second chance to energize

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the phosphor particles. See col. 4, lines 18-25.

Since Verschueren lacks a phosphor layer, the motivation to add a light-scattering layer to improve phosphor energization is lacking.

The only motivation to add a light-scattering layer to Verschueren comes from Applicant's own teachings, and such hindsight is not permitted in judging obviousness under Section 103.

With regard to claim 3, the Examiner urges that Thornton discloses that the light-scattering layer may be an electrostatic coating, citing col. 3, line 67 through col. 4, line 2. However, this passage refers to the phosphor layer, not the light-scattering layer. There is no mention of how the light-scattering layer is formed.

Also with regard to claim 3, the Examiner urges that the electrostatic coating limitation is a process limitation, and as such, cannot serve to patentably define a product.

However, without conceding the patentability per se of claim 3, it is urged that claim 3 is patentable by virtue of its dependency.

Accordingly, claims 1 and 3 are not obvious in view of the cited combination of references, i.e., Verschueren and Thornton, and it is urged that the rejection is in error and should be reversed.

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Accordingly, Appellant respectfully requests that the Board reverse the Examiner's final rejection and direct that the Application proceed to Issue.

Respectfully submitted,



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